

U.S. Pat. App. No.: 09/971,080
Atty. Docket No.: 006004.00004

REMARKS

Applicant respectfully asks for reconsideration of both this application and the Office Action dated January 12, 2006. A response to this Office Action was due by April 12, 2006. Accordingly, Applicant is concurrently submitting a Petition for a one month extension of time, together with authorization for the Commissioner to charge the associated Petition fee of \$120 to Deposit Account No. 19-0733. Please consider this Amendment as timely filed.

Applicant gratefully acknowledges the telephonic interview granted by the Examiner on April 12, 2006. This Amendment is presented in accordance with the substance of that interview.

Claims 1-54 were pending in this application. In an effort to expedite prosecution of this application, Applicant has canceled claims 1-42 herein. Claims 43-54 are now pending.

In the Office Action, the Examiner first rejected claims 1-36, 38-41, 43-47, and 50-54 under 35 U.S.C. §103 over U.S. Patent No. 6,564,056 to Fitzgerald in view of U.S. Patent No. 6,633,747 to Hermann et al., and in further view of U.S. Patent No. 6,542,758 to Chennakeshu et al. Applicant respectfully points out that this rejection is moot with respect to claims 1-36 and 38-41. Applicant courteously traverses this rejection as applied to claims 43-47, and asks that it be withdrawn.

Claims 43-47 and 50 recite a first wireless telephone subscribed to receive one or more services from a wireless service provider, and a second wireless telephone sharing at least one service of the one or more services with the first wireless telephone. Claims 51-54 similarly recite subscribing a first wireless telephone service to receive one or more services from a wireless service provider, and arranging for at least one of the one or more services provided to

U.S. Pat. App. No.: 09/971,080
Atty. Docket No.: 006004.00004

the first wireless telephone to be shared with a second wireless telephone. These features of the invention are not taught or suggested by any combination of the Fitzgerald, Hermann et al. or Chennakeshu et al. patents.

In making this rejection, the Examiner argued that

Fitzgerald teaches a wireless communication system, comprising a wireless device (HUB 100, fig. 1); and a personal wireless telephones [sic] (PDA 124, phone 130, fig. 1), at least one of the wireless telephones/device being inherently subscribed to a connectivity service (external network such as Internet, data network, telephone network, and/or a cellular network) for sharing information between the wireless telephones device [sic] (col. 1, ln. 55 to col. 2, ln. 3). Fitzgerald further clearly teaches in column(s) 7, line(s) 59-67 that the type of data between the hub (100) and any devices 120-140 can be either continuous or bulk in which the continuous data defined [sic] as a phone conversation. (See Office Action, page 2, lines 13-20.)

Applicant respectfully suggests that, in making this rejection, the Examiner has argued that essentially unrelated features of the Fitzgerald system share functionality that they, in fact, do not. While the Examiner is entitled to read the claims in their broadest reasonable interpretation, the Examiner is not allowed to reinterpret the teaching of the prior art for convenience.

For example, the Examiner has argued that at least one of the PDA 124 and the phone 130 is "inherently subscribed to a connectivity service," and subsequently concluded that this "connectivity service [allows] sharing information between the wireless telephones device." There is, however, simply no teaching in the art to support these assertions. As disclosed in column 3, lines 42-44, the hub 100 allows the devices 120-140 to communicate with the outside world. If the PDA 124 or the phone 130 can communicate with the outside world through the hub 100, neither the PDA nor the phone 130 need be "inherently subscribed to a connectivity service"

U.S. Pat. App. No.: 09/971,080
Atty. Docket No.: 006004.00004

as asserted by the Examiner.

Further, even if the phone 130 were "inherently subscribed to a connectivity service," there is nothing in the Fitzgerald patent to suggest that the PDA 124 could communicate using the phone's service. Likewise, even if the PDA 124 were "inherently subscribed to a connectivity service," there is nothing in the Fitzgerald patent to suggest that the phone 120 could communicate using the PDA's service. That is, while the phone 130 and the PDA 124 may communicate with each other through the hub 100 (see column 3, lines 49-50), there is no teaching or suggestion in this patent that the phone 130 could communicate over a connectivity service provided to the PDA 124, or vice versa.

In any event, neither the phone 120 nor the PDA 124 would *share* a connectivity service provided to the hub 100, such as the connectivity service provided by the cellular network 108. Instead, the phone 120 (or the PDA 124) would only transmit data to the hub 100, which would then need to relay the data through its connectivity service. As well known to those of ordinary skill in the art, a cellular network provides connectivity service to individual nodes in the network, with each node being uniquely identified by an Electronic Serial Number (ESN). If the hub 100 has an ESN for the cellular network 108, then the cellular network 108 could not reach through the hub 100 to provide connectivity service to either the phone 130 or the PDA 124. Similarly, a data network provides connectivity service to individual nodes in the network, with each node being uniquely identified by a network address (e.g., an Internet protocol address). Again, if the hub 100 has a network address for the data network 104, then the data network 104 could not reach through the hub 100 to provide connectivity service to either the phone 130 or

U.S. Pat. App. No.: 09/971,080
Atty. Docket No.: 006004.00004

the PDA 124. A telephone network likewise provides connectivity service to individual nodes in a switching network, with each node being uniquely identified by a telephone number. If the hub 100 has its own telephone number for the telephone network 106, then the telephone network 106 could not reach through the hub 100 to provide connectivity service to either the phone 130 or the PDA 124. Accordingly, none of the connectivity services 104-108 provided to the hub 100 are shared by either the phone 130 or the PDA 124. Instead, the phone 130 and the PDA 124 can only request that the hub 100 uses its connectivity service to relay messages on their behalf.

With particular regard to claim 45, this claim recites that the second wireless telephone is subscribed to receive services from a second wireless service provider different from the first wireless service provider. To reject this claim, the Examiner first argued that the Fitzgerald patent teaches that devices such as PDA (124) and automobiles (138) may belong to different public data networks (PDNs) at different times. From this, the Examiner concluded that they "might obviously be subscribed to different service providers." In fact, the Fitzgerald patent teaches that the devices 120-140 may be registered *with different hubs 100*. It makes no mention of registering any of the devices 120-140 with a wireless service provider, much less with a wireless service provider that is different from the cellular network 108. Applicant respectfully submits that the Examiner has improperly extrapolated this feature of the invention from the Fitzgerald patent to support an erroneous rejection.

Regarding claims 46 and 53, these claims recite cooperation between two wireless service providers. This feature clearly is not taught or suggested anywhere in the Fitzgerald patent, and Applicant notes that the Examiner has made no attempt to suggest otherwise. In fact, the

U.S. Pat. App. No.: 09/971,080
Atty. Docket No.: 006004.00004

Examiner's arguments supporting the rejection of this claim do not even mention cooperation between different wireless service providers. These arguments certainly do not point out where this particular feature is taught or suggested in any of the Fitzgerald, Hermann et al. or Chennakeshu et al. patents. (See Office Action, page 5, line 18 to page 6, line 4 with regard to claim 46, and page 2, lines 13-25, with regard to claim 53).

Claim 52 then recites expressly requesting that the wireless service provider share the at least one service with the second wireless telephone. The Fitzgerald patent, however, does not teach or suggest submitting such a request to a wireless service provider. Again, while the Examiner has rejected this claim over the combination of the Fitzgerald, Hermann et al. and Chennakeshu et al. patents, the Examiner did not identify a specific portion in any of these patents that purports to disclose this feature, either expressly or implicitly. (See Office Action, page 2, lines 13-25.)

Claim 54 recites paying a fee to the first wireless service provider for sharing the service with the second wireless telephone. Nothing in the Fitzgerald patent, however, could possibly teach or suggest paying a service provider to share a service with a second wireless telephone. Applicant points out that the Examiner does not even argue that this feature is taught or suggested in the Fitzgerald patent. Instead, based upon the prior assertion that the Fitzgerald patent teaches that devices such as PDA (124) and automobiles (138) may belong to different public data networks (PDNs) at different times, the Examiner has hypothesized that one of the devices 120-140 *might* be subscribed to a different service provider, who *might* then charge a fee for configuring the device to communicate with the hub 100. This type of speculation is not a

U.S. Pat. App. No.: 09/971,080
Atty. Docket No.: 006004.00004

substitute for an actual disclosure in the prior art, and certainly does not support the outstanding rejection of this claim.

Accordingly, Applicant again respectfully submits that the Fitzgerald patent does not teach or suggest a second wireless telephone sharing a service that is subscribed to a first wireless telephone. Further, neither the Hermann et al. patent nor the Chennakeshu et al. patent remedy these omissions of the Fitzgerald patent. Applicant therefore asks that the rejection of claims 43-47 and 50-54 under 35 U.S.C. §103 be withdrawn.

Claims 37, 42, 48 and 49 then were rejected under 35 U.S.C. §103 over the combination of the Fitzgerald, Hermann et al. and Chennakeshu et al. patents, in further view of U.S. Patent No. 6,246,755 to Walker. Applicant respectfully submits that this rejection is moot with respect to claims 37 and 42, which have been canceled herein. Applicant courteously traverses this rejection as applied to claims 48 and 49, however, and asks for its reconsideration. As addressed in detail above, Applicant respectfully urges that no combination of the Fitzgerald, Hermann et al. and Chennakeshu et al. patents would teach or suggest the features of the invention recited in these claims. It is courteously submitted that the Walker et al. patent does not remedy the above-described omissions of the Fitzgerald, Hermann et al. and Chennakeshu et al. patents.

For example, claim 48 recites that the first wireless telephone and the second wireless telephone share a single billing report. In rejecting this claim, however, the Examiner only generally refers to revenue sharing disclosed in the Walker patent. The Examiner does not identify any portion of the Walker patent that would actually teach issuing a single billing report. In fact, the Examiner does not even mention this feature in his arguments, even though it is

U.S. Pat. App. No.: 09/971,080
Atty. Docket No.: 006004.00004

expressly recited in claim 48.

Accordingly, it is respectfully submitted that no combination of the Fitzgerald, Hermann et al., Chennakeshu et al. and Walker patents would teach or suggest the features of the invention recited in claims 48 and 49. Applicant therefore asks that the rejection of these claims be withdrawn as well.

It is believed that no additional fees are due for the entry and consideration of this Request. If, however, the Commissioner deems that fees are required for the entry and consideration of this Request, the Commissioner is hereby authorized to charge any fees deemed necessary to maintain the pendency of this application, including any fees under 35 U.S.C. §1.16 and §1.17, to the deposit account of the undersigned, Deposit Account No. 19-0733. Please consider this Amendment as timely filed.

In view of the above remarks, Applicant respectfully submits that all of the claims are allowable, and that this application is therefore in condition for allowance. Applicant courteously asks for favorable action at the Examiner's earliest convenience.

Respectfully submitted,

By: Thomas L. Evans
Thomas L. Evans, Reg. No. 35,805

BANNER & WITCOFF, LTD.
1001 G Street, N.W., 11th Floor
Washington, D.C. 20001-4597
Telephone: (202) 824-3000
Facsimile: (202) 824-3001

Date: May 12, 2006